

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|---------------------------------|---|---------------------|
| BENEFICIAL FINANCIAL, INC., its |) | |
| successors and assigns, |) | |
| |) | |
| Plaintiff, |) | CIVIL ACTION NO. |
| |) | |
| VS. |) | 3:14-CV-0123-G (BN) |
| |) | |
| YADA SMITH, and/or all other |) | |
| occupants, |) | |
| |) | |
| Defendant. |) | |

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the United States Magistrate Judge dated February 6, 2014, the court finds that the findings, conclusions, and recommendation of the magistrate judge are correct and they are accepted as the findings, conclusions, and recommendation of the court. The defendant objected that the plaintiff waived its objections to subject-matter jurisdiction. *See* Objections at 2 (docket entry 9). However, “[i]t is axiomatic that the federal courts have limited subject matter jurisdiction and cannot entertain cases

unless authorized by the Constitution and legislation. . . . parties can never consent to federal subject matter jurisdiction, and lack of such jurisdiction is a defense which cannot be waived.” *Coury v. Prot*, 85 F.3d 244, 248 (5th Cir. 1996) (internal citation omitted). Therefore, the defendant’s objections are overruled.

It is therefore **ORDERED** that the findings, conclusions, and recommendation of the United States Magistrate Judge are accepted. This case is **REMANDED** to the **County Court at Law No. 5, Dallas County, Texas**. The clerk shall mail a certified copy of this order to the county clerk of Dallas County, Texas. 28 U.S.C. § 1447(c).

February 25, 2014.



A. JOE FISH
Senior United States District Judge